MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2015/2016 SESSION

UCV4612 – CIVIL PROCEDURE I

(All Sections / Groups)

10 OCTOBER 2015
Reading Time: 2.30 p.m – 2.45 p.m
(15 Minutes)
Answering Time: 2.45 p.m-5.30 p.m
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt FOUR out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into the Examination Hall CLEAN and ORIGINAL copy of the Rules of Court 2012.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

On 13 November 2013, Labu and his father were on their way back home from Labu's school when they met with an accident. They were on a motorcycle ridden by Labu's father with Labu as the pillion. The accident, which occurred at Section 2 Shah Alam, was between the motorcycle and a "Jabatan Kerja Raya" (JKR) lorry driven by one Sulaiman Akhlaken. The latter was on his way back to his office. Labu, aged 13 years old then, was seriously injured while his father died at the scene. Labu was hospitalized for more than a month. After being discharged from the hospital he now lives with his uncle, Kundur, in Seremban as his mother had passed away when he was 6 years old. Labu wishes to know whether he can commence a legal action arising from the accident.

Advise Labu on the following:-

(a) Whether he can commence a legal action for personal injuries and for the death of his father.

(16 marks)

(b) Whether he can commence a legal action against Sulaiman Akhlaken's employer.

(5 marks)

(c) The court in which to commence the action.

(4 marks)

(Total: 25 Marks)

QUESTION 2

Manisah comes to you and tells you the following facts:-

(a) She was served with an Originating Summons together with an affidavit affirmed by one Rokiah. The claim was for defamation. She wishes to appoint you as her lawyer.

Advise Manisah as to whether the originating summons is a proper mode of originating process.

(10 marks)

Continued...

(b) On a different matter, Manisah informs you that, her landlord has taken a legal action by way of a Writ against her for failing to pay rentals for almost a year. The Writ was issued on 3 January 2015. However, it was only served on Manisah by AR Registered Post on 11 September 2015.

Advise Manisah on the issuance of the Writ and the validity of service of the Writ.

(15 marks)

(Total: 25 Marks)

QUESTION 3

Haji Bakhil comes to seek your advice on three separate and distinct actions. The material facts are as follow:-

(a) Ahmad Albab is suing Haji Bakhil for breach of contract. A writ was served on Haji Bakhil personally about five months ago. A judgment in default has been entered against Haji Bakhil as he did not enter appearance nor attend the matter in the court. He wishes to set aside the judgment.

Advise Haji Bakhil on whether he may set aside the said judgment.

(10 marks)

(b) Bank Bungasusahbayar is suing Haji Bakhil for default of payment under a Hire Purchase Agreement. Haji Bakhil received the writ two days ago. Haji Bakhil has not filed any appearance.

Advise Haji Bakhil on how to enter an appearance to the said writ.

(3 marks)

(c) Haji Bakhil runs a business under a partnership which is being sued in the name of the firm by Sudin for breach of contract. When the writ was served to Haji Bakhil, his son Ramlee accepted it on his behalf. Haji Bakhil did not enter appearance and a judgment in default has been entered against the firm.

Advise whether the said judgment can be set aside and the procedure to do so.

(12 marks)

(Total: 25 Marks)

Continued...

QUESTION 4

Pak Mustar has commenced an action against Ajis for breach of contract in the Sessions Court at Seremban. The writ and statement of claim were personally served on Ajis a week ago. Pak Mustar believes that Ajis has no defence to the action.

(a) As counsel for Pak Mustar, advise Pak Mustar on the following:-

(i) The procedure by which he could speedily and expeditiously dispose off the action against Ajis.

(8 marks)

(ii) When should the procedure be invoked?

(5 marks)

(b) As counsel for Ajis, advise Ajis on the following separate situations in the event the procedure referred to in para (a) above is invoked:-

(i) Ajis has no defence but he has a counterclaim.

(5 marks)

(ii) Ajis has a defence but not a complete one.

(7 marks)

(Total: 25 Marks)

QUESTION 5

Write short notes on the following:-

(a) Third party proceedings. (5 marks)

(b) Substituted service. (5 marks)

(c) *Locus standi.* (5 marks)

(d) Mis-joinder of parties. (5 marks)

(e) Intervener. (5 marks)

(Total: 25 Marks)

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